



Managing woodland access and forest operations in Scotland



Practice Note

James Ogilvie and Kevin Lafferty

November 2013

Forests and woodlands bring wide-ranging and diverse benefits to people in Scotland. They are ideal places for people of all ages to participate in leisure, recreation and sports. However, forests are also workplaces. Forestry is an important part of the rural economy, and the production of timber provides revenue for landowners and jobs for the forestry sector and related businesses. Harvesting and haulage operations have been expanding over the past few years, as the forests that were established last century reach maturity, and so the need to balance woodland access with the need for safety during forest operations has never been more important. This is both to comply with health and safety legislation and fulfil land access obligations. Managing woodland access and forest operations is a pragmatic and practical process, involving land managers and access authorities, so that forest operations can take place safely, with minimal disruption to public access and recreational users. This Practice Note sets out clear steps to achieve this aim, including advice on early engagement with stakeholders and careful planning of operations. It is aimed at landowners and managers, forestry practitioners and operators, access authorities and recreation bodies.

Introduction

Forests and woodlands provide ideal places for people of all ages to participate in leisure, recreational and sports activities. According to the Forestry Commission public opinion of forestry survey, up to three-quarters of adults make visits to woodlands in Scotland each year. The recreational use of forests has been shown to contribute to people's mental, physical and social well-being, in addition to delivering economic benefits.

As well as providing popular places for recreation, forests and woodlands are workplaces. They are an important part of the rural economy, producing timber and providing revenue for landowners and jobs for the sector. Forest management is a long-term activity involving infrequent – but sometimes intensive – management interventions over relatively short periods of time. During recent years there has been a significant expansion of timber harvesting and haulage activity, as the forests established last century reach economic maturity. This has been exacerbated by recent incidences of tree diseases, which have required sanitation felling. The need for positive management of access with forest operations is therefore particularly pertinent at this time to meet existing health and safety duties and to comply with forest managers' obligations under the Land Reform (Scotland) Act (2003).

Harvesting operations require particular measures to be taken to ensure that everyone's health and safety is properly catered for – both those accessing the forest for leisure or business and those undertaking forestry operations. Modern forest management involves large machines and vehicles, which fell the trees and carry the logs (Figure 1).

Figure 1 Falling trees and large machines are dangerous and can kill. They require a risk zone (typically of 50–70 m) from which the public must be excluded for their safety.



Scope

This guidance is aimed at forest owners and managers, forest operators, access authorities and recreation bodies. It is designed to inform the forestry sector as well as access authorities (local authorities and national park authorities) in Scotland about responsible management of access and forest land management. It is specifically intended to help guide decision makers in situations where forestry operations such as harvesting and site preparation may have impacts on visitors and recreational users.

Subject to legislation (see next section), managing woodland access and forest operations is a pragmatic and practical process involving land managers and access authorities in order to ensure that forest operations can take place smoothly and safely, with minimal disturbance to public access. This Practice Note sets out clear steps to achieve this aim, including advice on early engagement with stakeholders and careful forward planning of operations. Practical site guidance on how to manage the safety of forestry workers and visitors during forest operations is set out in the Forestry Commission Practice Note *Managing public safety on harvesting sites*.

Legislation

Land Reform Act

Legislation establishing statutory public rights of access to most land and inland water for recreational and other purposes was introduced under the Land Reform (Scotland) Act 2003. The Act created a statutory framework for the provision and management of access in Scotland. These access rights enable people to pursue recreational, relevant educational and certain commercial uses of the countryside, provided they do so responsibly, and they cover a wide range of non-motorised activities such as walking, cycling, horse riding and ski touring.

The Act places a legal duty on landowners to manage land responsibly in a way that respects access rights. The Act defines responsible behaviour for access takers, by stating that 'a person is to be presumed to be exercising access rights responsibly if they are exercised so as not to cause unreasonable interference with any of the rights ... of any other person' and this includes rights associated with land ownership. Similarly, land managers are presumed to be acting responsibly in respect of access rights if their management of the land *'does not cause unreasonable interference with the access rights of any person ...'*

Responsibilities for those exercising access rights and for land managers are set out in the Scottish Outdoor Access Code (SOAC). The Act also makes provision for local access forums

and core paths plans. Access authorities have a duty under the Act to draw up a plan for a system of core paths to give the public reasonable access throughout their area. Core paths link to and support the wider path network. They are intended to create a basic network of key routes to provide for the main needs of users and to assist with land management. The inclusion of a path in a core path plan is an indication of its relative importance to access provision in an area and its value to communities, visitors and land managers.

Rights of way (see SOAC paragraphs 2.15–2.17) are formed under common law and vary from tarmac roads to simple earth paths and may apply in areas without access rights. Some are also designated as core paths.

Scottish Outdoor Access Code

The Scottish Outdoor Access Code provides information and guidance for users and land managers about statutory access rights and responsibilities – specifically how to exercise access rights responsibly and how to manage land and water responsibly for access. The Code is based upon three key principles: respecting the interests of other people; caring for the environment; and taking responsibility for your own actions. It provides non-statutory guidance on access management during land management operations, such as forestry.

The framework for responsible access and land management provision provided by the Land Reform Act and the Scottish Outdoor Access Code, is fully integrated with the requirements of other legislation such as the Health and Safety at Work Act.

Health and Safety at Work Act

The Health and Safety at Work Act 1974 is the primary piece of health and safety legislation. It places a duty on employers and the self-employed to conduct their undertakings in such a way as to make sure – so far as is reasonably practicable – that their employees and people not in their employment (for example the public) are not exposed to risks to their health and safety caused by their operations.

Occupiers' Liability Act

An 'occupier' of land has a duty to show care towards people on that land. The Occupiers' Liability (Scotland) Act 1960 directs landowners and managers to ensure that visitors to forests and woodlands are not put at risk through actions or omissions. The level of this duty of care varies and depends upon such things as whether:

- the landowner or manager is aware of a danger or risk, and

it is known that people may be in – or come into – the vicinity of the danger; or

- the risk is one against which the landowner or manager may reasonably be expected to offer some protection.

Equality Act

Forestry Commission surveys of public opinion reveal that disabled respondents are least likely to have visited forests or woodlands and that personal mobility constraint (e.g. difficulty in walking) is one of the most commonly reported reasons for not visiting. The Equality Act 2010 protects people with disabilities and other defined protected characteristics* from being discriminated against in the provision of all facilities, goods and services. The Act describes a wide range of illegal discrimination and makes a requirement for reasonable adjustments to enable disabled people to access facilities, goods and services.

Key guidance

The UK Forestry Standard

The UK Forestry Standard (UKFS) is the reference standard for sustainable forest management in the UK. Supported by a series of Guidelines, it outlines the context for forestry in the UK, sets out the governments' approach to sustainable forest management, defines standards and requirements, and provides a basis for regulation and monitoring – including national and international reporting. The UKFS Guidelines on *Forests and people* provides more detailed information for forest and woodland owners, managers and practitioners on how to comply with UKFS Requirements. These Guidelines state that in Scotland the provisions of the Land Reform Act must be respected – including access rights to woodland – and that people must not be obstructed from using their access rights responsibly.

UK Woodland Assurance Standard

The UK Woodland Assurance Standard (UKWAS) is an independent certification standard for verifying sustainable woodland management in the UK. Under woodland access and recreation, UKWAS refers to the Land Reform Act and associated guidance on responsible behaviour as set out in the Scottish Outdoor Access Code. Attaining the UKWAS allows accreditation under the Forest Stewardship Council (FSC) and also the Programme for Endorsement of Forest Certification (PEFC), and hence use of their respective labels, which may be displayed on forest products to verify that they have been sourced from responsibly managed forests.

* Protected characteristics are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.

Forest Industry Safety Accord

At a Forest Industry Safety Summit held in 2012, representatives from key parts of the industry (including contractor operations, Forestry Commission, Health and Safety Executive, Scottish Enterprise, Confor, the UK Forest Products Industry, Forestry Contracting Association, and all the major timber processors of the supply chain) agreed a Forest Industry Safety Accord to support the development of a new safety culture where the health, safety and welfare of all working in the forest industry is a fundamental priority (see www.ukfisa.com). The Accord seeks to improve the current performance of the industry in relation to the number and severity of accidents and incidents in all forest operations, including harvesting and forest establishment activities.

Managing public safety on harvesting sites

The Forestry Commission Practice Note *Managing public safety on harvesting sites* provides guidance for landowners, forest managers and forestry practitioners. It sets out the different roles and responsibilities for managing public safety to ensure that activities on and around harvesting work sites are co-ordinated and the right tasks are carried out by the right people. It provides information and advice on suitable control measures and illustrates good practice through the use of scenarios. The guidance was first published in 2001 by the Forestry and Arboriculture Safety Training Council (FASTCo).

Key points from the legislation and guidance

- Forests are an important and popular destination for a range of visitors, exercising their access rights.
- Forests are working places and forest operations have inherent risks and dangers.
- To achieve robust health and safety outcomes for the public and minimise impact on access rights it is essential that forest managers plan and implement dynamic, flexible and proportionate arrangements for access during forest operations.
- Such arrangements are likely to encourage compliance by the public and therefore be more effective in meeting safety needs.
- The Scottish Outdoor Access Code provides information and guidance for users and land managers about statutory access rights and responsibilities and should be the reference point for guidance on the management of access during forest operations and obligations under health and safety and access legislation.
- Industry guidance set out in 'Managing public safety on harvesting sites' provides further practical operational advice on the implementation of access management arrangements during forest operations.

Managing public access during forest operations

As working environments, managed forests provide rural livelihoods for many people. Disruption to forest operations can therefore be costly to individuals and businesses, both in terms of time and money. The establishment of access rights does not prevent landowners and land managers from carrying out a wide range of land management operations as safely and effectively as possible (and so meeting obligations under the Health and Safety at Work Act 1974 and other relevant legislation). A key responsibility placed on those exercising access rights is to not hinder this work (SOAC, paragraph 4.11) and, by law, land managers must take reasonably practicable steps to ensure that the public is not put at risk by their work. They must also undertake forest operations in a way that takes account of access rights and minimises the time and area affected by any necessary restrictions (Figure 2). This is best achieved through the dynamic and flexible management of access during forest operations at sites when health and safety risks necessitate restricting access. More details are set out in the *Scottish Outdoor Access Code, Managing public safety on harvesting sites* and the HSE guidance on *Managing health and safety in forestry*.

Responsible behaviour by land managers

As a land manager you must manage your land responsibly for access. The Scottish Outdoor Access Code sets out the main responsibilities. You should act reasonably when asking people to avoid land management operations (Box 1) and act responsibly when managing land with ongoing forest operations (Box 2).

Planning is an important precursor to forest operations such as cultivation, tree felling, extraction and haulage; road and path construction and maintenance; and crop spraying. Forest

Figure 2 Information on control measures such as threshold signs is given in 'Managing public safety on harvesting sites'.



Box 1 – Responsible management for access (SOAC P 53)

- Ask people, if you have an opportunity to do so whilst undertaking a land management operation, to follow a particular route.
- Take precautions, such as asking people to avoid using a particular route or area or to avoid doing a particular activity where there are more serious or less obvious hazards to their safety, such as from tree felling or crop spraying.
- Keep any precautions to the minimum area and duration required to safeguard people's safety.
- Tell the public – especially if levels of public access are high or if the operation is particularly dangerous – about any precautions at any obvious access points (such as car parks or gates).

Box 2 – Responsible behaviour by land managers (SOAC P 94)

- Follow good practice, as set out in industry-approved guidance, in the management of work sites where people are taking access.
- Keep the area affected, and the duration and type of any precaution, to the minimum required. Tell people about these at the main access points and, if possible, provide alternative routes.
- If possible, concentrate felling and extraction at times when public use is likely to be lowest.
- Allow people to use particular routes when work has ended (such as for the weekend) and would not cause significant safety hazards.
- Ensure that all site operators and vehicle drivers are aware that people might be present.

planning considers forest operations over a 20-year period, bringing together management objectives, silvicultural prescriptions, environmental, social and landscape factors into a comprehensive forest management plan. For forest management plans funded under the Scotland Rural Development Programme, management of public access to woodland must be in accordance with the Scottish Outdoor Access Code. Access rights should be taken into account when planning and implementing any major land use change or development (including local authority development plans where applicable). Early effective communication with stakeholders will help to avoid future difficulties. Points to consider include:

- Establishing the existing paths and patterns of access across

the worksite including any seasonal variations that may have a bearing on the timing of forest operations.

- Identifying any particularly heavily used or strategically important paths such as core paths or rights of way.
- The different types of recreational use and any particular user needs or expectations (e.g. access to a particular feature of interest, such as a viewpoint or loch).
- Consulting with local community groups and those representing recreational users (for details of the Scottish governing bodies of sport see www.sportscotland.org.uk).
- Clarifying access and operational needs with the access authority and other relevant recreational interests at an early stage will help to minimise potential conflicts (for details of access officers see www.outdooraccess-scotland.com).

When planning forest operations, consideration of access management will be required for all sites. However, particular time and attention will be required for sites where one or more of the following apply:

- There are significant levels of public use.
- The sites are of particular importance for sport and recreation.
- The sites are close to a community or populated area.
- There are paths that play a key part in local access provision and therefore carry strong community expectations over their use (e.g. core paths, rights of way).
- Nationally promoted routes (e.g. one of Scotland's Great Trails) that crosses a site*.
- Access routes coincide for those taking access and for forest hauliers or other machinery/vehicle operators.
- Forest operations extend over large areas or over a long period of time.

If one or more of the above apply, land managers should consider:

- Undertaking a statutory risk assessment (see HSE website) of a proposed land management operation including information on the nature, location and duration of the risk.
- Evaluating any impacts the work might have on people exercising access rights on neighbouring land and modify the work where this is reasonably practicable.
- Providing information at the main access points (such as car parks and gates) in advance of, and during, operations on where and for how long a land management operation is taking place and, where appropriate, provide contact details and maps showing alternative routes (see Managing public safety on harvesting sites).

* Some users will be making a planned journey, sometimes on a tight timetable, and most of them will have come from a distance, sometimes from abroad, and with no ready access to information about management works. They will have expectations that their use of a national and well-promoted route will not be unduly impeded.

- Not purposefully or unreasonably preventing, hindering or deterring people from exercising access rights on or off paths and tracks.
- Using the least restrictive practical option, taking account of all types of use, where work site access controls are necessary.
- In providing an alternative route to avoid a work site, ensure that it is accessible for all legitimate users.

Following any operational damage to a core path or right of way, the legal requirement (see Section 23 of the Land Reform Act) is that the path should be reinstated within two weeks, unless alternative arrangements have been made with the access authority.

Responsible behaviour by forest operators

In meeting the requirements of the Land Reform Act and achieving the most effective and robust outcome for public health and safety, forest operators are encouraged to respect the needs of people exercising access rights responsibly by adopting a dynamic, flexible and evolving approach to their management of access on operational sites. Controls and restrictions on access (and information provided on these to the public) should adapt and focus on the actual risks present, as work progresses at a site.

Particular difficulties can arise where forest operators and those taking access least expect to encounter one another (Figure 3).

Figure 3 Be aware of where recreational use is likely; operational staff and visitors may not expect to encounter one another.



This can be within work site exclusion zones, in very remote locations or at unlikely times of the day or night. An active and adaptive approach to access management is the key.

In certain cases the risk assessment will identify a need to control access by the public to a particular area or route by providing or suggesting alternative routes, especially if the operation will affect a well-used path or track or popular recreation site. Conflicts will be minimised where access is prevented for as limited an area and as limited a time as is consistent with fulfilling the duty of care.

Practical site guidance on how to manage the safety of staff, contractors and others during forest operations is set out in *Managing public safety on harvesting sites*, while responsible behaviour is set out in paragraph 4.2 of the Scottish Outdoor Access Code.

Further useful points to consider when implementing access management on site are set out below:

- Remember that people respond best to land managers and forest operators who show that people are welcome.
- Be aware of where and when recreational use is likely and which additional paths or tracks walkers, cyclists or riders might legitimately expect to use.
- Ensure that signs are relevant and time bounded, covered up when work is not taking place and removed immediately after work is completed.
- Manage operational areas dynamically to adapt access arrangements, controls and information as operational activity progresses.
- Concentrate operations at times of the day and the week when public use is likely to be lowest.
- Allow people to use particular routes when site operations are not taking place or when work has ended (e.g. evenings and weekends).
- Where practicable identify a suitable alternative route for all appropriate types of access user (where possible this should not be significantly longer than the route which is temporarily closed for safety reasons during forest operations).
- Ensure that all site operators and vehicle drivers are aware that access takers and recreational participants might be present and where they are most likely to meet them.
- After completion of operations reinstate paths that have been affected by cultivation or harvesting.
- Remove signs and notices when they are no longer necessary (not doing this undermines the effectiveness of all safety signage and notices).
- Arrange for core paths to be reinstated within two weeks (weather and site conditions permitting) or other timescale as agreed with the access authority.

Responsible behaviour by visitors

It is helpful for forest managers to be knowledgeable about the behaviour that is expected of visitors and recreational users in order for them to be considered to be behaving responsibly. Users share the outdoors with other people who earn their living from it or who live there or who enjoy it in other ways. Users are exercising access rights responsibly if they:

- do not interfere unreasonably with the rights of other people;
- act lawfully and reasonably, and take proper account of the interests of others and of the features of the land.

Further details are set out in Boxes 3, 4 and 5, and paragraphs 3.24 to 3.28 of the Scottish Outdoor Access Code.

Box 3 – Exercising access rights responsibly (SOAC P 17)

Visitors are asked to take personal responsibility for their own actions by:

- caring for their own safety by recognising that the outdoors is a working environment and by taking account of natural hazards;
- taking special care if they are responsible for children as a parent, teacher or guide to ensure that they enjoy the outdoors responsibly and safely.

Box 4 – Helping land managers and others (SOAC P 18)

Visitors are asked to help land managers and others to work safely and effectively by:

- not hindering a land management operation, by keeping a safe distance and following any reasonable advice from the land manager;
- following any precautions taken or reasonable recommendations made by the land manager, such as to avoid an area or route when hazardous operations, such as tree felling and crop spraying, are under way.

Box 5 – Responsible behaviour by the public (SOAC P 94)

Visitors are given the following guidance regarding forests and woodlands with ongoing forest operations:

'Tree felling, timber extraction and haulage may affect an area of forest and forest roads for several months. Read any signs warning you of forest operations, such as tree felling and extraction, and follow any precautions suggested by the land manager. This will ensure that you do not hinder these operations and ensure your safety and that of people working there.'

Role of access authorities

The Land Reform Act introduced a wide range of duties and powers for access authorities to uphold access rights, create, protect and manage paths, and remove obstructions deterring people from exercising access rights. When liaising with the local access authority regarding facilitation and management of access during operational periods, it is useful to consider the following questions:

- Is the path located close to a community?
- Is it heavily used throughout the year, or seasonally?
- Is the path used to reach essential services or is its use mainly recreational?
- What categories of user will be using the site? (e.g. pedestrian, cyclist, equestrian, local/visitor, long-distance route user).
- How dense is the path network in the area and are there suitable alternative routes available to temporarily divert different types of users?
- If there is a need to close the path how long will it be closed and how much disruption will there be for users?

Once the access authority and the land manager have agreed upon what is required, it is important to ensure that the works are publicised and adequately signposted on the ground.

Ongoing liaison may be needed to deal with any new issues that arise. Access authorities may be able to assist with providing signage templates (see *Managing public safety on harvesting sites*) or design and mapping, although they may require payment for this service to cover costs.

While the access authority can assist in providing advice and assistance in relation to publicising temporary access closures relating to forestry operations, it is primarily the responsibility of the forestry landowner/manager and operator to ensure compliance with legislative and Scottish Outdoor Access Code requirements.

Access authorities have a legal duty to uphold access rights and have legal powers for example to remove prohibitive signs, unreasonable obstructions and dangerous impediments, and to recover the costs from the person responsible. However, in most cases, access officers will aim to work with land managers to avoid difficulties and resolve them amicably.

Key conclusions for forest managers

- Follow the guidance provided by the Scottish Outdoor Access Code to guide access management during forest operations.
- Respect access rights in managing land or water.
- Act reasonably when asking people to avoid land management operations.
- Work with the local authority and other bodies to help integrate access and land management.
- Consider the needs of those seeking to exercise their access rights as an integral part of planning forest operations.
- Minimise disruption to both operations and access through sound operational planning and good practice.
- Remember that safety is paramount.
- Use local access officers to help plan, advise and resolve difficulties.

Useful sources of information

Forestry Commission publications

- The UK Forestry Standard (FCFC001)
- UKFS Guidelines on Forests and People (FCGL005)

Guidance and good practice

- Managing public safety on harvesting sites (FCPN019)

Research

- Scottish public opinion of forestry survey

Other publications

- Managing health and safety in forestry (HSE)
- A brief guide to occupiers' legal liabilities in Scotland in relation to public outdoor access (SNH)
- Equestrian access in Scotland: horse riding, carriage driving and managing land responsibly (SNH)

Websites

- The UK Forestry Standard – www.forestry.gov.uk/ukfs
- Public opinion of forestry – www.forestry.gov.uk/statistics
- UK legislation – www.legislation.gov.uk
- Health and Safety Executive – www.hse.gov.uk
(includes information on risk assessment and a risk assessment template at www.hse.gov.uk/risk/risk-assessment.htm)
- Forest Industry Safety Accord – www.ukfisa.com
- Scottish Outdoor Access Code – www.outdooraccess-scotland.com
- Scotland Rural development Programme – www.scotland.gov.uk
- Scottish Natural Heritage – www.snh.gov.uk
- Sport Scotland – www.sportscotland.org.uk
- UK Woodland Assurance Standard – <http://ukwas.org.uk>
- Visitor Safety in the Countryside Group – www.vscg.co.uk
(including a good practice guide on managing tree safety)
- Confor – www.confor.org.uk

Enquiries relating to this publication should be addressed to:

James Ogilvie
Forestry Commission Scotland
Silvan House
231 Corstorphine Road
Edinburgh EH12 7AT
+44 (0)131 334 0303

james.ogilvie@forestry.gsi.gov.uk
www.forestry.gov.uk

For more information about the work of Forest Research, visit: **www.forestry.gov.uk/forestresearch**

For more information about Forestry Commission publications, visit: **www.forestry.gov.uk/publications**

The Forestry Commission will consider all requests to make the content of publications available in alternative formats. Please send any such requests to **diversity@forestry.gsi.gov.uk** or call **0131 314 6575**.